IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

CRL.A.No. 1167 of 2001()

CC.233/1999 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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APPELLANT:

SHAJAHAN ABDULKHADER,
THAIVELI HOUSE,
INJIPARAMBU ROAD,
THOPPIL JUNCTION,
THRIKKAKARA P.O..

BY ADV. SRI.K.S.MADHUSOODANAN

RESPONDENTS:

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1. V.M.ISMAIL, VAKIYAKATH HOUSE,
UNICHIRA, CHANGAMPUZHA NAGAR P.O,
KOCHI-33.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.1167 of 2001 (D)

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Dated this the 9th day of July, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.233/1999 in the file of the Judicial Magistrate of First Class Court-I, Aluva, the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(1) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of the wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 09/08/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.A.No.1167 of 2001 (D)

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J U D G M E N T

9th July, 2007